

UN CONFERENCE ON THE LAW OF THE SEA

15 89

13 March 1975

TO REMIND:

The meeting of the informal group of juridical experts on the Law of the Sea will be held in Conference Room XXIII at the Palais des Nations on Tuesday 18 March at 3 p.m.

Evensen Group Draft Articles
- on the -
Economic Zone
Continental Shelf

Keep SEPARATE!

State Dept. review completed

MINISTER WITHOUT PORTFOLIO

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Geneva, 13 March 1975

Enclosure

Informal group of juridical experts - meeting on Tuesday 18 March at 3 p.m.

I have pleasure in enclosing the fourth revision, corrigendum 1, of the draft articles on the Economic Zone, including Fisheries - as basis for the work at the group of juridical experts which commences on Tuesday 18 March at 3 p.m. The place for the meeting will be communicated to you as soon as the necessary arrangements have been made with the Secretariat.

You will note that the document is largely identical with the version which was distributed during the second week of the last meeting of the group in New York 10-22 February, except for the addition of some new articles. On highly migratory species (article 19) we have still not concluded our revision. A new suggested single formula for this article will, however, be distributed shortly. Articles will also be required on anadromous and catadromous species, but here we have preferred to await the outcome of ongoing consultations between the principally interested delegations before formulating any suggestions.

We have in the fourth revision stuck to the single formula approach, rather than reproducing the alternatives in the "third revision". It is suggested therefore that the representatives may wish to bring along to the meeting also the "third revision", for easy reference.

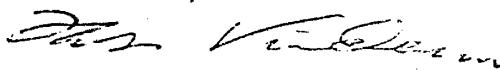
The fourth revision does not, of course, reflect agreed positions on every issue. There are, as we all know, still

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to highlight these by the use of brackets, as suggested by some participants, we have however preferred to continue with the single formula approach. I am sure we are all aware of the points which are still unsettled, but trust that the suggested compromise formulations will reflect the narrowing of the area of disagreement which emerged in our New York discussions.

I enclose at the same time Corrigendum 1 of the fourth revision of the draft articles on the Continental Shelf. We may find it expedient to move to this subject as soon as we have concluded our discussion on the Economic Zone and Fisheries. As far as the Preservation of the Marine Environment is concerned, we are still working on a revised text following the New York discussion and we will distribute this as soon as it is ready.

For Jens Evensen



: Helge Vindenes

PART V

THE ECONOMIC ZONE

General provisions

Article 11

The coastal State exercises in an area beyond and adjacent to its territorial sea, known as the exclusive economic zone:

(a) Sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether renewable or non-renewable, of the seabed and subsoil and the superjacent waters;

(b) Rights with respect to jurisdiction for the purpose of:

- i) Customs, fiscal, health and immigration regulations;
- ii) the preservation of the marine environment,
- iii) regulating scientific research,
- iv) regulating the establishment and use of artificial islands, installations, and similar structures,

as provided for in this Convention;

(c) Other rights and duties provided for in this Convention.

The rights set out in this Article shall be without prejudice to the provisions of Articles of this Convention.

The economic zone shall not extend beyond 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

Article 13

1. In the economic zone all States, whether coastal or land-locked, shall enjoy the rights of freedom of navigation and overflight, subject to the provisions of this Convention.
2. The coastal State shall exercise its rights and perform its duties in the economic zone with due regard to the rights referred to in paragraph 1 and to other legitimate uses of the sea, including the laying of cables and pipelines, to the extent that these are exercised in accordance with international law and are compatible with the provisions of this Convention.
3. The provisions of paragraphs 1. and 2. do not apply to activities for which the authorization of the coastal State is required pursuant to this Convention and shall not in any way prejudice the rights of the coastal State pursuant to this Convention.
4. In exercising their rights and performing their duties under this Convention, States shall have due regard to the rights and duties of the coastal State in the economic zone.
5. The laying and maintenance of submarine cables and pipelines on the seabed shall be subject to the provisions of Article

Article 14

1. The coastal State shall have the exclusive right to construct, or to authorize and regulate in the economic zone the construction, operation and use of:
 - (a) artificial islands;
 - (b) installations used for purposes subject to its jurisdiction under Article 11;
 - (c) installations used for any economic purpose;
 - (d) structures which may interfere with the exercise of the rights of the coastal State in the economic zone.
2. The coastal State may, where necessary, establish reasonable safety zones around such off-shore installations, and ships of all nationalities shall respect these safety zones.
3. The provisions of Article (installations) shall apply, mutatis mutandis to such installations and to safety zones.
4. The provisions of this Article do not apply to submarine cables and pipelines on the seabed.

Living resources

Article 15.

The coastal State shall in the exercise of its sovereign rights over the living resources in the economic zone ensure by proper management and conservation measures that the maintenance of these resources is not endangered by over-exploitation. It shall co-operate with the appropriate regional and global organizations to this end.

In the exercise of its right to determine the allowable catch and establish other conservation measures for the living resources of the zone, the coastal State shall apply the following principles.

(a) Allowable catch and other conservation measures shall be established which are designed, on the best evidence available to the coastal State, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, taking into account relevant environmental and economic factors, and any generally agreed global or regional minimum standards;

(b) Such measures shall take into account effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which they may become threatened with serious depletion or extinction;

(c) For this purpose, scientific information, catch and fishing effort statistics, and other relevant data shall be contributed and exchanged on a regular basis.

Article 16

1. The coastal State shall in the exercise of its sovereign rights over the living resources in the economic zone promote the objective of maximum utilization of the renewable resources within its economic zone, subject to the provisions of Article 15 of this Convention.
2. To the extent that the coastal State is unable to harvest the entire allowable catch, it shall through agreements or other arrangements and pursuant to appropriate coastal State regulations, give other States access to the surplus.

3. In granting access to other States under this Article, the coastal State shall take into account all relevant factors, including inter alia its national interests, the provisions of Articles 20 and 21, the requirements of developing countries interested in harvesting part of the surplus, and the need to minimize economic dislocation in States which have habitually fished in the zone or have made efforts in research, identification and exploitation of stocks and in the provision of technical and other assistance to the coastal State.

4. Fishing by nationals of other States in the economic zone shall comply with the conservation measures and with the other terms and conditions established in the regulations of the coastal State adopted pursuant to paragraph 2 of this Article. These regulations shall be consistent with the provisions of this Article and may relate, inter alia, to the following:

- (a) Licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration; developing states in particular may require adequate compensation in the field of fishing industry financing, equipment and fisheries technology;
- (b) Determining the species which may be caught, and fixing quotas of catch, whether in relation to particular stocks or complexes of stocks or catch per vessel over a period of time or to the catch by nationals of any State during a specified period;
- (c) Regulating times and areas of fishing, the types, sizes and amount of gear, and the numbers, sizes and types of fishing vessels that may be used;
- (d) Fixing the age and size of fish and other species that may be caught;
- (e) Specifying information required of fishing vessels, including catch and effort statistics and vessel position reports;

- (f) Requiring, under the authorization and control of the coastal State, the conduct of specified fisheries research programmes and regulating the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;
- (g) The placing of observers, trainees or crew members on board such vessels by the coastal State;
- (h) The landing of all or any part of the catch by such vessels in the ports of the coastal State;
- (i) Terms and conditions relating to joint ventures or other cooperative arrangements;
- (j) Requirements for training personnel and transfer of fisheries technology including enhancement of the coastal State's capability for undertaking fisheries research;
- (k) Enforcement procedures as defined in Article

Article 17

1. States shall cooperate in seeking to elaborate standards and guidelines for conservation and rational utilization of the living resources in the economic zone, directly or within the framework of appropriate international fisheries organizations, whether universal or regional with a view to regulating species of fish or fisheries of common interest to the countries concerned.
2. When the same stock or stocks of associated species occur within the economic zones of two or more coastal States, these States shall seek either directly or through appropriate regional organizations to agree upon the measures necessary to coordinate and ensure the conservation and equitable allocation of such species, without prejudice to the other provisions of this Chapter.
3. Coastal States shall give timely notice of conservation and allocation regulations.

Article 18

1. Nothing in this Convention shall prejudice the right of the coastal State to permit nationals of other States to fish in its economic zone. In particular, neighbouring States may through agreements or other arrangements, and pursuant to coastal State regulations, allow each other's nationals the right to fish in their respective economic zones on the basis of reciprocity or long and mutually recognized usage, taking into account all relevant economic and geographic circumstances.
2. Special arrangements with land-locked and other geographically disadvantaged States may be negotiated on a regional, sub-regional or bilateral level.
3. Such rights cannot be transferred to third parties without the consent of the coastal State. Jurisdiction and control conservation, development and management of the resources shall lie with the coastal States in their respective economic zones.

Article 19

(An Article concerning regulations of fisheries with regard to highly migratory species.)

Article 20

The coastal State may, in the exercise of its sovereign rights to explore and exploit the living resources in the economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with its laws and regulations.

Arrested vessels and their crew shall be entitled to release upon the posting of reasonable bond or other security.

Coastal State penalties for violations of fisheries regulations in the economic zone may not include imprisonment or any other form of corporal punishment.

In cases of arrest or detention of foreign vessels the coastal State shall promptly inform the state of registry of the action taken and of any penalties subsequently imposed.

PART VI

THE CONTINENTAL SHELF

Article 26

Alternative A

The Continental Shelf of a coastal State extends beyond its territorial sea to a distance of 200 miles from the applicable baselines and throughout the natural prolongation of its land territory where such natural prolongation extends beyond 200 miles up to the outer edge of the continental margin (as defined in paragraph 2 of this article).

Alternative B

(1) The outer limit of the Continental Shelf may be established by the coastal State within the 500 metre isobath.

(2) In areas where the 500 metre isobath is situated at a distance less than 200 nautical miles measured from the baselines from which the territorial sea is measured, the outer limit of the Continental Shelf may be established by the

Alternative C

The Continental Shelf of a coastal State comprises the seabed and subsoil of the submarine areas adjacent to the State, but outside the area of the territorial sea. The outer limit of the continental Shelf shall not exceed a maximum distance of 200 nautical miles from the baseline for measuring the breadth of the territorial sea

Alternative B

of which is a distance from the nearest point of the said baseline not exceeding 200 nautical miles.

Chairman's view is that only Alternative A can give basis for general agreement and that the compromise element must be found in the concept of revenue sharing (Article 32), together with the definition of the continental margin.

Article 27

1. The coastal State exercises over the Continental Shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.
2. The rights referred to in paragraph 1 of this Article are exclusive in the sense that if the coastal State does not explore the Continental Shelf or exploit its natural resources no one may undertake these activities, or make a claim to the Continental Shelf, without the express consent of the coastal State.
3. The rights of the coastal State over the Continental Shelf do not depend on occupation, effective or notional, or on any express proclamation.

Article 28

Alternative A

The natural resources referred to in these provisions consist of the mineral and other living resources of the sea and subsoil, together with living organisms belonging to marine species.

Alternative B

The natural resources referred to in these provisions consist of the mineral and other non-living resources of the seabed and subsoil, together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or live in close and constant physical and biological contact with the seabed or the subsoil.

Alternative

The natural resources referred to in these provisions consist of the mineral and other non-living resources of the seabed and subsoil.

Chairman's suggested compromise formula:

The natural resources referred to in these provisions consist of the mineral and other non-living resources of the seabed and subsoil, together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in (constant) physical contact with the seabed or subsoil.

Article 29.

Alternative A

The rights of the coastal State over the Continental Shelf do not affect the legal régime of the superjacent waters or air space.

The normal navigation and overflight on and in the air space above the superjacent waters of the Continental Shelf by ships and aircraft of all states shall not be prejudiced.

Alternative B

The rights of the Coastal State over the Continental Shelf do not affect the legal status of the superjacent waters as high seas, or that of the air space above those waters.

Chairman's suggested compromise formula:

The rights of the coastal State over the Continental Shelf do not affect the legal régime of the superjacent waters or air space.

Article 30

The coastal State shall exercise its rights and perform its duties on the Continental Shelf with due regard to the rights of freedom of navigation and overflight and other legitimate uses of the sea, including the laying of cables and pipelines on the seabed.

In exercising their rights under this Convention, states shall have due regard to the rights and duties of the coastal State on the Continental Shelf.

Article 31

- (1) Subject to its right to take reasonable measures for the exploration of the Continental Shelf, the exploitation of its natural resources and the prevention of pollution, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on its Continental Shelf.
- (2) The delineation of the course for laying submarine pipelines on the Continental Shelf by a foreign State is subject to the consent of the coastal State.
- (3) Nothing in this article shall affect the jurisdiction of the coastal State over cables and pipelines constructed or used in connexion with the exploration or exploitation of its Continental Shelf or the operations of an installation under its jurisdiction, or its right to establish conditions for cables or pipelines entering its territory or territorial sea.
- (4) When laying submarine cables and pipelines due regard shall be paid to cables and pipelines already in position on the seabed. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

Alternative A

The coastal State in the exercise of its rights with respect to the non-renewable natural resources of the Continental Shelf shall pay, in respect of the exploitation of such non-renewable resources seaward of the territorial sea further seaward (insert formula), to be used, as specified in article ..., for international community purposes and for the benefit of developing countries.

1. A coastal State shall make contributions to The International Authority out of the revenues derived from exploitation of the nonliving resources of its Continental Shelf in accordance with the following paragraph.
2. The rate of contribution shall be per cent of the revenues from exploitation carried out within 40 miles or 200 metres isobath of the Continental Shelf, whichever limit the coastal State may choose to adopt, and per cent of the revenues from exploitation carried out beyond 40 miles or 200 metres isobath within the Continental Shelf.

3. The International Authority shall distribute these contributions on the basis of equitable sharing criteria.

Alternative C

1. In the area between the outer limit of the territorial sea and the outer limits of national jurisdiction, coastal states shall have the right to explore and exploit the mineral resources.

2. Coastal states shall annually contribute to the international authority ... per cent of the value of mineral resources derived from the area between 50 miles and the outer limits of national jurisdiction.
3. The revenue derived from annual contributions shall be distributed annually by the international authority in accordance with a ratio based upon the following formula:

$$\frac{\text{population of state}}{\text{global population}} \times \frac{\text{global per capita income}}{\frac{\text{per capita income}}{\text{per capita income of state}} \times 100}$$

Chairman's suggested compromise formula:

1. Coastal States shall make contributions to The International Authority of the revenues derived from exploitation of the mineral resources on the Continental Shelf outside 200 nautical miles from the applicable baselines. The basis, size and form of such contributions shall be agreed upon with the Authority in each case.
2. The International Authority shall distribute these contributions on the basis of equitable sharing criteria for international community purposes and for the special benefit of developing countries.

Article 33

Alternative A

1. The emplacement and use of installations on the Continental Shelf shall be subject to the authorization and regulation of the coastal State.
2. Subject to paragraphs 3-6 of this article and to the provisions of article, the coastal State is entitled to construct and maintain or operate on the Continental

Alternative B

- The coastal State shall have the exclusive right to authorize and regulate on the Continental Shelf the construction, operation and use of artificial islands and installations for the purpose of exploration or exploitation of natural resources or for other economic purposes, and of any installations which may interfere with the exercise of the rights of the coastal State.

(Article 33 cont.)

Alternative A

Shelf installations and other devices necessary for its exploration and the exploitation of its natural resources, and to establish safety zones around such installations, and devices and to take in those zones measures necessary for their protection.

3. The safety zones referred to in paragraph 2 of this article may extend to a distance of ... metres around the installations and other devices which have been erected, measured from each point of their outer edge. Ships of all nationalities must respect these safety zones.

4. Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

Alternative B

The coastal State may, where necessary, establish reasonable safety zones around such off-shore installations in which it may take appropriate measures to ensure the safety both of the installations and of navigation. Such safety zones shall be designed to ensure that they

are reasonably related to the nature and function of the installation. Ships of all nationalities must respect those safety zones.

The breadth of the safety zones shall be determined by the coastal State and shall conform to applicable international standards in existence or to be established by the International Marine Consultative Organization regarding the establishment and breadth of safety zones. In the absence of such additional standards, safety zones around installations for the exploration and exploitation of non-renewable resources of the seabed and subsoil

Alternative B

may extend to a distance of 500 metres around the installations, measured from each point of their outer edge.

States shall ensure compliance by vessels of their flag with applicable international standards regarding navigation outside the safety zones but in the vicinity of such off-shore installations.

Installations and safety zones around them may not be established where interference may be caused to the use of recognized seaways essential to international navigation.

Chairman's suggested compromise formula:

1. The coastal State shall have the exclusive right to authorize and regulate on the Continental Shelf the construction, operation and use of
 - (a) artificial islands;
 - (b) installations used for purposes subject to its jurisdiction under Article II;
 - (c) installations used for any economic purpose;

- (d) other structures which may interfere with the exercise of the rights of the coastal State in the economic zone.
2. The coastal State may, where necessary, establish reasonable safety zones around such off-shore installations, and ships of all nationalities shall respect these safety zones.
 3. Neither the artificial islands, installations or similar structures nor the safety zones around them, may be established where interference would be caused to the use of recognized sea-lanes essential to international navigation.
 4. The provisions of this article do not apply to submarine cables and pipelines on the seabed.

Article 34

Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.

Alternative A

Such installations and devices, although under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

Alternative B

For the purpose of this section, the term "installations" refers to artificial off-shore islands, facilities, or similar devices, other than those which are mobile in their normal mode of operation at sea. Installations shall not afford a basis for a claim to a territorial sea or economic zone, and their presence does not affect the delimitation of the territorial sea or economic zone of the coastal State.

Chairman's suggested compromise formula:

For the purpose of this section, the term "artificial islands, installations and other structures" refers to artificial off-shore installations, other than those which are mobile in their normal mode of operation at sea.

Artificial islands, installations and other structures shall not afford a basis for a claim to a Territorial Sea, Economic Zone or Continental Shelf, and their presence does not affect the delimitation of the Territorial Sea, Economic Zone or Continental Shelf of the coastal State.